IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 25347 of 2007(P)

PETITIONER:

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1. CINDRELLA, W/O. V.S.JOHNKUTTY,
   VELIYIL HOUSE, POLLATHAYIL P.O., ALAPPUZHA.

2. JOHNKUTTY V.S., S/O. SILVESTAR,
   VELIYIL HOUSE, POLLATHAYIL P.O., ALAPPUZHA.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENTS:

ALLEPPEY HOUSING CO-OPERATIVE SOCIETIES
LTD. NO.111, THATHAMPALLY P.O., ALAPPUZHA,
REPRESENTED BY ITS SECRETARY.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C).No. 25347 OF 2007 P

Dated this the 21st August, 2007.

JUDGMENT

This writ petition is filed seeking to stay all further execution proceedings pending before the Subordinate Judge's Court, Alappuzha relating to O.P (Arbitration) No:22/02. The execution proceeding is initiated for the sale of the mortgaged property and I am informed that it is posted on 6.9.2007. It is the residential house of the writ petitioners that is being put in auction. Since it is a mortgaged property, it cannot be sold in lots and it appears that no objection has been even filed with respect to the valuation. Learned counsel for the writ petitioners submits that if sufficient time is given his clients will pay the amount. The decree holder is a society and it will be eager for them to get the amount rather than the property. Therefore, in order to enable the writ petitioners to wipe off the liability I am inclined to give them some time.

i) The writ petitioners shall pay an amount of Rs.25,000/- on or before 6.9.2007.

ii) The writ petitioners shall pay the balance amount in three monthly equal instalments commencing from 22.10.2007.

iii) If the amount of Rs.25,000/- is not paid before the specified date or there is default of payment of any of the instalments the benefit given to the writ petitioners will stand cancelled and the decree holder will be at liberty to proceed with the sale of the property and as time is granted at the instance of the writ petitioners the entitlement to have a fresh proclamation is deemed to have been waived by the writ petitioners in this case. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge

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